



05 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Addison, Bradford G.
Barnes & Thornburg, Llp
11 South Meridian Street
Indianapolis, IN 46204

In re Application of :
DOYLE et al. :
U.S. Application No.: 10/582,811 :
PCT No.: PCT/US04/39142 : DECISION ON PETITION
Int. Filing Date: 22 November 2004 :
Priority Date: 16 December 2003 :
Attorney Docket No.: 31725200230 :
For: COMPOSITION AND METHOD FOR :
INHIBITING SALMONELLA AND :
CAMPYLOBACTER COLONIZATION IN :
POULTRY :

This decision is issued in response to applicants' "Assertion of Entitlement to Small Entity Status and Request for Refund" filed on 25 July 2006.

BACKGROUND

On 14 June 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by the basic national fee; a copy of the international application; an oath/declaration of inventors; and a preliminary amendment.

On 25 July 2006, applicants filed "Assertion of Entitlement to Small Entity Status and Request for Refund."

DISCUSSION

37 CFR 1.28(a) provides:

A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

In the present case, the 25 July 2006 request for a refund of a portion of the fees paid upon filing the present application based upon the subsequent establishment of small entity status was made within three months of the payment of the large entity fees on 14 June 2006. Accordingly, petitioner is entitled to a refund of a portion of the large entity fees paid upon filing the present application.

CONCLUSION

The request for refund under 37 CFR 1.28(a) is **GRANTED**.

Deposit Account no. 10-0435 will be refunded 700.00.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459